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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,738	12/20/2001	Hans Een	000515-230	5629

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12/11/2003

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,738

Applicant(s)

EEN, HANS

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,8-10 and 13 is/are rejected.
- 7) ☒ Claim(s) 3,5,7,11,12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☒ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

Drawings

1. The proposed drawing changes were received on 9-24-03. These changes are approved by the Examiner. The approval of the drawings filed 3-28-02 is held in abeyance until such time as a copy of replacement drawings including all the changes is provided. It is noted that the drawing changes filed 9-24-03 did not comply with 37 CFR 1.121 as revised. Only two sets of drawing changes were provided and not labeled as "Annotated Marked-up Drawings". Also Replacement drawing sheets labeled "Replacement Sheet" including all the changes were not provided. Any further response must include such replacement sheets.

Claim Objections

2. Claims 1 and 3-16 are objected to because of the following informalities: in claim 1, last section, the underlined language should be --in a temporary manner by a binder having an adhesive or cohesive capacity which is lost during use of the absorbent product, wherein the one of the first surface and the second surface of each of leakage barrier comes away from the one of the first surface layer and the second surface layer it is fastened to and forms a raised leakage barrier due to the gathering by said elastic when the binder loses its adhesive or cohesive capacity--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 10, are the binder in claim 1 and the welding or bond in this claim one and the same, i.e. are both a binder and a weld or bond required? In regard to claim 8, a positive antecedent basis for "its adhesive or cohesive capacity"(last line) should be set forth(Note the claim language suggested for claim 1 supra and paragraph 13 of the last Office Action).

Claim Language Interpretation

4. Since Applicant have not specifically defined any claim term the common meaning of such, i.e. the dictionary definition, terms will be used.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 4, 6, 9-10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Sageser '803.

The diaper is 20, the first surface layer is 38, the second surface layer is the inside portion of 42 adjacent 23 as seen in Figure 4 of the side panels 62, the backing layer is 42 coextensive with absorbent body 44, the leakage barriers are 62 as seen in Figure 7, the edges are also seen in Figure 7 and include elastic 77, see col. 11, lines 30-47, the fastening in the temporary manner is

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100, see paragraph bridging cols. 10-11, col. 11, lines 23-29 and col. 8, lines 39-58. Also note paragraph [0023] of the instant specification. The fastening in a temporary manner in Sageser is a frangible adhesive or glue or ultrasonic bond or thermal bond 100 which loses its ability to adhere or cohere when subjected to mechanical action during use. When broken, the previously adhered portion of the barrier comes away or raises from the surface it was adhered to.

Therefore, the fastening 100 of Sageser is considered to be a "binder" as claimed.

Allowable Subject Matter

7. Claim 8 patentably distinguishes over the art. It is presumed for the purposes of this conclusion that the binder temporary fastens the one surface of the flap to a fastening surface but loses its capacity to fasten during use and the flap rises, i.e. see suggested claim language for claim 1 supra. It is noted that the application does not appear to provide support for a binder other than as presumed, i.e. a binder which does not temporary fasten and does not lose its capacity to fasten during use so that the flap does not rise. Claims 3, 5, 7, 11-12 and 14-16 also patentably distinguish over the art.

Response to Arguments

8. Applicant's remarks on page 14, line 1-page 16, line 10 and claim 17, lines 15 et seq have been considered but are either deemed moot in that the issue discussed has not been reraised or or deemed nonpersuasive for the reasons set forth supra. With regard to Applicant's remarks on page 16, line 11-page 17, line 14 with respect to Sageser, such remarks have been considered but are deemed nonpersuasive in that they are narrower than the claim language and

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the teachings of Sageser, i.e. "during use" as claimed is not restricted to the time the diaper is on the wearer (Note Sageser uses the terminology "the user" in the paragraph bridging cols. 10-11) and Sageser teaches elasticized edges, see cited portions supra, and, e.g., Figure 2. Also Sageser does not state the user has to manually break the bonds prior to putting on the diaper.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

K.M. Reichle
Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
December 9, 2003